

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: ARIZONA

TRANSFER OF RESOURCES

1902(f) and 1917
of the Act

The agency provides for the denial of eligibility by reason of disposal of resources for less than fair market value.

A. Except as noted below, the criteria for determining the period of ineligibility are the same as criteria specified in section 1613(c) of the Social Security Act (Act).

1. Transfer of resources other than the home of an individual who is an inpatient in a medical institution.

a. 17 The agency uses a procedure which provides for a total period of ineligibility greater than 24 months for individuals who have transferred resources for less than fair market value when the uncompensated value of disposed of resources exceeds \$12,000. This period bears a reasonable relationship to the uncompensated value of the transfer. The computation of the period and the reasonable relationship of this period to the uncompensated value is described as follows:

TN No. 85-5
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b. The period of ineligibility is less than 24 months, as specified below:

c. X The agency has provisions for waiver of denial of eligibility in any instance where the State determines that a denial would work an undue hardship.

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2. Transfer of the home of an individual who is an inpatient in a medical institution.

☒ A period of ineligibility applies to inpatients in an SNF, ICF or other medical institution as permitted under section 1917(c)(2)(B)(i).

- a. Subject to the exceptions on page 2 of this supplement, an individual is ineligible for 24 months after the date on which he disposed of the home. However, if the uncompensated value of the home is less than the average amount payable under this plan for 24 months of care in an SNF, the period of ineligibility is a shorter time, bearing a reasonable relationship (based on the average amount payable under this plan as medical assistance for care in an SNF) to the uncompensated value of the home as follows:

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- b. ☒ Subject to the exceptions on page 2 of this supplement, if the uncompensated value of the home is more than the average amount payable under this plan as medical assistance for 24 months of care in an SNF, the period of ineligibility is more than 24 months after the date on which he disposed of the home. The period of ineligibility bears a reasonable relationship (based upon the average amount payable under this plan as medical assistance for care in an SNF) to the uncompensated value of the home as follows:

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No individual is ineligible by reason of item
A.2 if—

- i. A satisfactory showing is made to the agency (in accordance with any regulations of the Secretary of Health and Human Services) that the individual can reasonably be expected to be discharged from the medical institution and to return to that home;
- ii. Title to the home was transferred to the individual's spouse or child who is under age 21, or (for States eligible to participate in the State program under title XVI of the Social Security Act) is blind or permanently and totally disabled or (for States not eligible to participate in the State program under title XVI of the Social Security Act) is blind or disabled as defined in section 1614 of the Act;
- iii. A satisfactory showing is made to the agency (in accordance with any regulations of the Secretary of Health and Human Services) that the individual intended to dispose of the home either at fair market value or for other valuable consideration; or
- iv. The agency determines that denial of eligibility would work an undue hardship.

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3. 1902(f) States

/ Under the provisions of section 1902(f) of the Social Security Act, the following transfer of resource criteria more restrictive than those established under section 1917(c) of the Act, apply:

B. Other than those procedures specified elsewhere in the supplement, the procedures for implementing denial of eligibility by reason of disposal of resources for less than fair market value are as follows:

1. If the uncompensated value of the transfer is \$12,000 or less:

2. If the uncompensated value of the transfer is more than \$12,000:

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3. If the agency sets a period of ineligibility of less than 24 months and applies it to all transfers of resources (regardless of uncompensated value):

4. Other procedures:

See Addendum to Supplement 9 to Attachment 2.6-A.

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TRANSFER OF ASSETS

1917(c) The agency provides for the denial of certain Medicaid services by reason of disposal of assets for less than fair market value.

1. Institutionalized individuals may be denied certain Medicaid services upon disposing of assets for less than fair market value on or after the look-back date.

The agency withholds payment to institutionalized individuals for the following services:

Payments based on a level of care in a nursing facility;

Payments based on a nursing facility level of care in a medical institution;

Home and community-based services under a 1915 waiver.*

2. Non-institutionalized individuals:

_____ The agency applies these provisions to the following non-institutionalized eligibility groups. These groups can be no more restrictive than those set forth in section 1905(a) of the Social Security Act:

The agency withholds payment to non-institutionalized individuals for the following services:

Home health services (section 1905(a)(7));

Home and community care for functionally disabled and elderly adults (section 1905(a)(22));

Personal care services furnished to individuals who are not inpatients in certain medical institutions, as recognized under agency law and specified in section 1905(a)(24).

_____ The following other long-term care services for which medical assistance is otherwise under the agency plan:

* AHCCCS has an 1115 waiver for home and community based services.

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3. Penalty Date--The beginning date of each penalty period imposed for an uncompensated transfer of assets is:
- X* the first day of the month in which the asset was transferred;
- _____ the first day of the month following the month of transfer.
4. Penalty Period - Institutionalized Individuals--
In determining the penalty for an institutionalized individual, the agency uses:
- _____ the average monthly cost to a private patient of nursing facility services in the agency;
- X the average monthly cost to a private patient of nursing facility services in the community in which the individual is institutionalized.
5. Penalty Period - Non-institutionalized Individuals--
The agency imposes a penalty period determined by using the same method as is used for an institutionalized individual, including the use of the average monthly cost of nursing facility services;
- _____ imposes a shorter penalty period than would be imposed for institutionalized individuals, as outlined below:

* Except when multiple transfers occur and a period of ineligibility already exists.
(see #7 on Page 3)

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6. Penalty period for amounts of transfer less than cost of nursing facility care--
- a. Where the amount of the transfer is less than the monthly cost of nursing facility care, the agency:
- X does not impose a penalty;
- imposes a penalty for less than a full month, based on the portion of the agency's private nursing facility rate that was transferred.
- b. Where an individual makes a series of transfers, each less than the private nursing facility rate for a month, the agency:
- X* does not impose a penalty;
- imposes a series of penalties, each for less than a full month.
7. Transfers made so that penalty periods would overlap--
The agency:
- totals the value of all assets transferred to produce a single penalty period;
- X** calculates the individual penalty periods and imposes them sequentially.
8. Transfers made so that penalty periods would not overlap--
The agency:
- X assigns each transfer its own penalty period;
- uses the method outlined below:

* Unless the total amount transferred in the month exceeds the private nursing facility rate.

** Any carry-over uncompensated value from the first transfer is added to the uncompensated value of the next transfer.

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9. Penalty periods - transfer by a spouse that results in a penalty period for the individual-

(a) The agency apportions any existing penalty period between the spouses using the method outlined below, provided the spouse is eligible for Medicaid. A penalty can be assessed against the spouse, and some portion of the penalty against the individual remains.

1. When both spouses are eligible, the penalty period is equally divided between the two members, regardless of which spouse made the transfer.
2. If one member of the couple is eligible and assessed a penalty period, and the other member subsequently becomes eligible, the remaining penalty is divided equally between the two members.
3. When a penalty period has been divided between two eligible spouses and one spouse subsequently dies or becomes ineligible, the remainder of the penalty period is assessed to the remaining eligible spouse.

(b) If one spouse is no longer subject to a penalty, the remaining penalty period must be served by the remaining spouse.

10. Treatment of income as an asset--

When income has been transferred as a lump sum, the agency will calculate the penalty period on the lump sum value.

_____ The agency will impose partial month penalty periods.

When a stream of income or the right to a stream of income has been transferred, the agency will impose a penalty period for each income payment.

_____ For transfers of individual income payments, the agency will impose partial month penalty periods.

_____ For transfers of the right to an income stream, the agency will use the actuarial value of all payments transferred.

 X The agency uses an alternate method to calculate penalty periods, as described below:

If the monthly amount of the income transferred is less than the private nursing facility monthly rate, no penalty is imposed.

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11. Imposition of a penalty would work an undue hardship--
The agency does not apply the transfer of assets provisions in any case in which the agency determines that such an application would work an undue hardship. The agency will use the following procedures in making undue hardship determinations.
1. Provide a notice to the applicant/recipient that explains the hardship criteria, and offer an opportunity to claim undue hardship.
 2. Request evidence.
 3. Submit evidence to the Policy Unit for review.
 4. The Administration will review the case to determine if all the criteria for an undue hardship (listed below) are met. If all criteria are met, the period of ineligibility for long term care services resulting from the transfer will be waived.

The following criteria will be used to determine whether the agency will not count assets transferred because the penalty would work an undue hardship:

1. The individual is otherwise eligible for medical benefits.
2. The individual is unable to obtain medical care without receipt of assistance.
3. The individual is experiencing an emergent, life threatening episode and without medical care is in imminent danger of death, as determined by the Director.